

JUDICIAL COUNCIL
OF THE NINTH CIRCUIT

OCT 19 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

IN RE COMPLAINT OF
JUDICIAL MISCONDUCT

Nos. 09-90258, 09-90259,
09-90260, 10-90011 and 10-90012

ORDER

KOZINSKI, Chief Judge:

Complainants, husband and wife, allege that two district judges and a magistrate judge improperly exercised jurisdiction over their matter by construing their filing as a civil complaint. This charge relates directly to the merits of the case and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainants further claim that the judges abused their judicial authority, conspired to dismiss their case, acted with malice and bias, tampered with documents and committed crimes including bribery, fraud and identity theft. But complainants have not provided any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support these serious allegations. See In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. 2009). Adverse rulings alone do not prove the bias and malice that

complainants allege. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. 2009). These charges must all be dismissed because there is no evidence that any misconduct took place. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainants' allegations against the deputy court clerk are dismissed because the misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.